



General Assembly

Amendment

January Session, 2005

LCO No. **7596**

SB0041007596HR0

Offered by:

REP. FLOREN, 149th Dist.

To: Subst. Senate Bill No. **410**

File No. 390

Cal. No. 582

(As Amended)

"AN ACT CONCERNING FARM LAND PRESERVATION, LAND PROTECTION, AFFORDABLE HOUSING AND HISTORIC PRESERVATION."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (a) of section 8-25 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective July*
5 *1, 2005*):

6 (a) No subdivision of land shall be made until a plan for such
7 subdivision has been approved by the commission. Any person, firm
8 or corporation making any subdivision of land without the approval of
9 the commission shall be fined not more than five hundred dollars for
10 each lot sold or offered for sale or so subdivided. Any plan for

11 subdivision shall, upon approval, or when taken as approved by
12 reason of the failure of the commission to act, be filed or recorded by
13 the applicant in the office of the town clerk within ninety days of the
14 expiration of the appeal period under section 8-8, or in the case of an
15 appeal, within ninety days of the termination of such appeal by
16 dismissal, withdrawal or judgment in favor of the applicant but, if it is
17 a plan for subdivision wholly or partially within a district, it shall be
18 filed in the offices of both the district clerk and the town clerk, and any
19 plan not so filed or recorded within the prescribed time shall become
20 null and void, except that the commission may extend the time for
21 such filing for two additional periods of ninety days and the plan shall
22 remain valid until the expiration of such extended time. All such plans
23 shall be delivered to the applicant for filing or recording not more than
24 thirty days after the time for taking an appeal from the action of the
25 commission has elapsed or not more than thirty days after the date
26 that plans modified in accordance with the commission's approval and
27 that comply with section 7-31 are delivered to the commission,
28 whichever is later, and in the event of an appeal, not more than thirty
29 days after the termination of such appeal by dismissal, withdrawal or
30 judgment in favor of the applicant or not more than thirty days after
31 the date that plans modified in accordance with the commission's
32 approval and that comply with section 7-31 are delivered to the
33 commission, whichever is later. No such plan shall be recorded or filed
34 by the town clerk or district clerk or other officer authorized to record
35 or file plans until its approval has been endorsed thereon by the
36 chairman or secretary of the commission, and the filing or recording of
37 a subdivision plan without such approval shall be void. Before
38 exercising the powers granted in this section, the commission shall
39 adopt regulations covering the subdivision of land. No such
40 regulations shall become effective until after a public hearing held in
41 accordance with the provisions of section 8-7d. Such regulations shall
42 provide that the land to be subdivided shall be of such character that it
43 can be used for building purposes without danger to health or the
44 public safety, that proper provision shall be made for water, sewerage
45 and drainage, including the upgrading of any downstream ditch,

46 culvert or other drainage structure which, through the introduction of
47 additional drainage due to such subdivision, becomes undersized and
48 creates the potential for flooding on a state highway, and, in areas
49 contiguous to brooks, rivers or other bodies of water subject to
50 flooding, including tidal flooding, that proper provision shall be made
51 for protective flood control measures and that the proposed streets are
52 in harmony with existing or proposed principal thoroughfares shown
53 in the plan of conservation and development as described in section
54 8-23, especially in regard to safe intersections with such thoroughfares,
55 and so arranged and of such width, as to provide an adequate and
56 convenient system for present and prospective traffic needs. Such
57 regulations shall also provide that the commission may require the
58 provision of open spaces, parks and playgrounds when, and in places,
59 deemed proper by the planning commission, which open spaces, parks
60 and playgrounds shall be shown on the subdivision plan. Such
61 regulations may, with the approval of the commission, authorize the
62 applicant to pay a fee to the municipality or pay a fee to the
63 municipality and transfer land to the municipality in lieu of any
64 requirement to provide open spaces. Such payment or combination of
65 payment and the fair market value of land transferred shall be equal to
66 not more than ten per cent of the fair market value of the land to be
67 subdivided prior to the approval of the subdivision. The fair market
68 value shall be determined by an appraiser jointly selected by the
69 commission and the applicant. A fraction of such payment the
70 numerator of which is one and the denominator of which is the
71 number of approved parcels in the subdivision shall be made at the
72 time of the sale of each approved parcel of land in the subdivision and
73 placed in a fund in accordance with the provisions of section 8-25b.
74 The open space requirements of this section shall not apply if the
75 transfer of all land in a subdivision of less than five parcels is to a
76 parent, child, brother, sister, grandparent, grandchild, aunt, uncle or
77 first cousin for no consideration, or if the subdivision is to contain
78 affordable housing, as defined in section 8-39a, equal to twenty per
79 cent or more of the total housing to be constructed in such subdivision.
80 Such regulations, on and after July 1, 1985, shall provide that proper

81 provision be made for soil erosion and sediment control pursuant to
82 section 22a-329. Such regulations shall not impose conditions and
83 requirements on manufactured homes having as their narrowest
84 dimension twenty-two feet or more and built in accordance with
85 federal manufactured home construction and safety standards or on
86 lots containing such manufactured homes which are substantially
87 different from conditions and requirements imposed on single-family
88 dwellings and lots containing single-family dwellings. Such
89 regulations shall not impose conditions and requirements on
90 developments to be occupied by manufactured homes having as their
91 narrowest dimension twenty-two feet or more and built in accordance
92 with federal manufactured home construction and safety standards
93 which are substantially different from conditions and requirements
94 imposed on multifamily dwellings, lots containing multifamily
95 dwellings, cluster developments or planned unit developments. The
96 commission may also prescribe the extent to which and the manner in
97 which streets shall be graded and improved and public utilities and
98 services provided and, in lieu of the completion of such work and
99 installations previous to the final approval of a plan, the commission
100 may accept a bond in an amount and with surety and conditions
101 satisfactory to it securing to the municipality the actual construction,
102 maintenance and installation of such improvements and utilities
103 within a period specified in the bond. Such regulations may provide,
104 in lieu of the completion of the work and installations above referred
105 to, previous to the final approval of a plan, for an assessment or other
106 method whereby the municipality is put in an assured position to do
107 such work and make such installations at the expense of the owners of
108 the property within the subdivision. Such regulations shall require that
109 the application for a proposed subdivision or resubdivision include an
110 analysis of the impact of the proposal on trees located on the parcel.
111 Such regulations may provide that in lieu of either the completion of
112 the work or the furnishing of a bond as provided in this section, the
113 commission may authorize the filing of a plan with a conditional
114 approval endorsed thereon. Such approval shall be conditioned on (1)
115 the actual construction, maintenance and installation of any

116 improvements or utilities prescribed by the commission, or (2) the
117 provision of a bond as provided in this section. Upon the occurrence of
118 either of such events, the commission shall cause a final approval to be
119 endorsed thereon in the manner provided by this section. Any such
120 conditional approval shall lapse five years from the date it is granted,
121 provided the applicant may apply for and the commission may, in its
122 discretion, grant a renewal of such conditional approval for an
123 additional period of five years at the end of any five-year period,
124 except that the commission may, by regulation, provide for a shorter
125 period of conditional approval or renewal of such approval. Any
126 person, firm or corporation who, prior to such final approval, sells or
127 offers for sale any lot subdivided pursuant to a conditional approval
128 shall be fined not more than five hundred dollars for each lot sold or
129 offered for sale.

130 Sec. 502. Subsection (a) of section 8-2 of the general statutes is
131 repealed and the following is substituted in lieu thereof (*Effective July*
132 *1, 2005*):

133 (a) The zoning commission of each city, town or borough is
134 authorized to regulate, within the limits of such municipality, the
135 height, number of stories and size of buildings and other structures;
136 the percentage of the area of the lot that may be occupied; the size of
137 yards, courts and other open spaces; the density of population and the
138 location and use of buildings, structures and land for trade, industry,
139 residence or other purposes, including water-dependent uses as
140 defined in section 22a-93, and the height, size and location of
141 advertising signs and billboards. Such bulk regulations may allow for
142 cluster development as defined in section 8-18. Such zoning
143 commission may divide the municipality into districts of such number,
144 shape and area as may be best suited to carry out the purposes of this
145 chapter; and, within such districts, it may regulate the erection,
146 construction, reconstruction, alteration or use of buildings or
147 structures and the use of land. All such regulations shall be uniform
148 for each class or kind of buildings, structures or use of land throughout
149 each district, but the regulations in one district may differ from those

150 in another district, and may provide that certain classes or kinds of
151 buildings, structures or uses of land are permitted only after obtaining
152 a special permit or special exception from a zoning commission,
153 planning commission, combined planning and zoning commission or
154 zoning board of appeals, whichever commission or board the
155 regulations may, notwithstanding any special act to the contrary,
156 designate, subject to standards set forth in the regulations and to
157 conditions necessary to protect the public health, safety, convenience
158 and property values. Such regulations shall be made in accordance
159 with a comprehensive plan and in adopting such regulations the
160 commission shall consider the plan of conservation and development
161 prepared under section 8-23. Such regulations shall be designed to
162 lessen congestion in the streets; to secure safety from fire, panic, flood
163 and other dangers; to promote health and the general welfare; to
164 provide adequate light and air; to prevent the overcrowding of land; to
165 avoid undue concentration of population and to facilitate the adequate
166 provision for transportation, water, sewerage, schools, parks and other
167 public requirements. Such regulations shall be made with reasonable
168 consideration as to the character of the district and its peculiar
169 suitability for particular uses and with a view to conserving the value
170 of buildings and encouraging the most appropriate use of land
171 throughout such municipality. Such regulations may, to the extent
172 consistent with soil types, terrain, infrastructure capacity and the plan
173 of conservation and development for the community, provide for
174 cluster development, as defined in section 8-18, in residential zones.
175 Such regulations shall also encourage the development of housing
176 opportunities, including opportunities for multifamily dwellings,
177 consistent with soil types, terrain and infrastructure capacity, for all
178 residents of the municipality and the planning region in which the
179 municipality is located, as designated by the Secretary of the Office of
180 Policy and Management under section 16a-4a. Such regulations shall
181 also promote housing choice and economic diversity in housing,
182 including housing for both low and moderate income households, and
183 shall encourage the development of housing which will meet the
184 housing needs identified in the housing plan prepared pursuant to

185 section 8-37t and in the housing component and the other components
186 of the state plan of conservation and development prepared pursuant
187 to section 16a-26. Zoning regulations shall be made with reasonable
188 consideration for their impact on agriculture. Zoning regulations may
189 be made with reasonable consideration for the protection of historic
190 factors and shall be made with reasonable consideration for the
191 protection of existing and potential public surface and ground
192 drinking water supplies. On and after July 1, 1985, the regulations shall
193 provide that proper provision be made for soil erosion and sediment
194 control pursuant to section 22a-329. Such regulations may establish
195 provisions for tree removal and clear cutting. Such regulations may
196 also encourage energy-efficient patterns of development, the use of
197 solar and other renewable forms of energy, and energy conservation.
198 The regulations may also provide for incentives for developers who
199 use passive solar energy techniques, as defined in subsection (b) of
200 section 8-25, in planning a residential subdivision development. The
201 incentives may include, but not be limited to, cluster development,
202 higher density development and performance standards for roads,
203 sidewalks and underground facilities in the subdivision. Such
204 regulations may provide for a municipal system for the creation of
205 development rights and the permanent transfer of such development
206 rights, which may include a system for the variance of density limits in
207 connection with any such transfer. Such regulations may also provide
208 for notice requirements in addition to those required by this chapter.
209 Such regulations may provide for conditions on operations to collect
210 spring water or well water, as defined in section 21a-150, including the
211 time, place and manner of such operations. No such regulations shall
212 prohibit the operation of any family day care home or group day care
213 home in a residential zone. Such regulations shall not impose
214 conditions and requirements on manufactured homes having as their
215 narrowest dimension twenty-two feet or more and built in accordance
216 with federal manufactured home construction and safety standards or
217 on lots containing such manufactured homes which are substantially
218 different from conditions and requirements imposed on single-family
219 dwellings and lots containing single-family dwellings. Such

220 regulations shall not impose conditions and requirements on
221 developments to be occupied by manufactured homes having as their
222 narrowest dimension twenty-two feet or more and built in accordance
223 with federal manufactured home construction and safety standards
224 which are substantially different from conditions and requirements
225 imposed on multifamily dwellings, lots containing multifamily
226 dwellings, cluster developments or planned unit developments. Such
227 regulations shall not prohibit the continuance of any nonconforming
228 use, building or structure existing at the time of the adoption of such
229 regulations. Such regulations shall not provide for the termination of
230 any nonconforming use solely as a result of nonuse for a specified
231 period of time without regard to the intent of the property owner to
232 maintain that use. Any city, town or borough which adopts the
233 provisions of this chapter may, by vote of its legislative body, exempt
234 municipal property from the regulations prescribed by the zoning
235 commission of such city, town or borough; but unless it is so voted
236 municipal property shall be subject to such regulations.

237 Sec. 503. Section 8-12a of the general statutes is repealed and the
238 following is substituted in lieu thereof (*Effective July 1, 2005*):

239 (a) Any municipality may, by ordinance adopted by its legislative
240 body, establish penalties for violations of zoning regulations adopted
241 under section 8-2 or by special act. Any fine for a violation concerning
242 the improper removal of trees shall be based on the number of trees
243 improperly removed. The ordinance shall establish the types of
244 violations for which a citation may be issued and the amount of any
245 fine to be imposed thereby and shall specify the time period for
246 uncontested payment of fines for any alleged violation under any such
247 regulation. No fine imposed under the authority of this section may
248 exceed one hundred fifty dollars for each day a violation continues.
249 Any fine shall be payable to the treasurer of the municipality.

250 (b) The hearing procedure for any citation issued pursuant to this
251 section shall be in accordance with section 7-152c except that no zoning
252 enforcement officer, building inspector or employee of the municipal

253 body exercising zoning authority may be appointed to be a hearing
254 officer.

255 (c) Any zoning enforcement officer who issues a citation pursuant to
256 an ordinance adopted under this section shall be liable for treble
257 damages in any civil action if the court finds that such citation was
258 issued frivolously or without probable cause."